

UNITED STATES DISTRICT COURT  
DISTRICT OF NORTH DAKOTA  
SOUTHEASTERN DIVISION

Robert Lee Johnson,	)	
	)	
Petitioner,	)	<b>ORDER ADOPTING</b>
	)	<b>REPORT AND RECOMMENDATION</b>
vs.	)	
	)	
Donald Redmann, Warden,	)	
James River Correctional Center,	)	Case No. 3:06-cv-33
	)	
Respondent.	)	

The Petitioner, Robert Lee Johnson, filed a petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus for a person in State Custody. (Doc. #1). This Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, recommending that Petitioner's pending application for habeas relief be dismissed, with prejudice, on the grounds that Petitioner's statute of limitations for filing such petition has lapsed. (Doc. #3). Petitioner has filed an Objection to the report and recommendation, alleging: (1) ineffective assistance of counsel, and (2) unconstitutional failure of the prosecution to disclose favorable evidence to the defendant. (Doc. #4). Petitioner failed to address the statute of limitations issue set forth in the report and recommendation.

The Antiterrorism and Effective Death Penalty Act, enacted on April 24, 1996, governs § 2254 petitions for habeas corpus relief. Section 2244(d) establishes a one-year statute of limitations for filing federal habeas petitions.

Johnson pled guilty to one count of Contact by Bodily Fluids. On July 18, 2001, the state court entered a judgment of conviction. Johnson did not directly appeal his conviction to the North

Dakota Supreme Court or petition the United States for a Writ of Certiorari. Consequently, for purposes of 28 U.S.C. § 2244(d)(1)(A), his conviction became final and the statute of limitations for filing a petition for habeas relief commenced on November 18, 2001 and lapsed on November 18, 2002. Johnson did not file an application for post-conviction relief until July 28, 2004. Therefore, Johnson's petition is time-barred.

This Court thus adopts the report and recommendations in its entirety. Petitioner's petition under Section 2254(d) is hereby **DISMISSED** with prejudice.

**IT IS SO ORDERED.**

Dated this 29th day of June, 2006.

  
Ralph R. Erickson, District Judge  
United States District Court